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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/639,143	08/11/2003	Yanon Volcani	11CF-123022	7036
30764 7590 01/11/2008 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP 333 SOUTH HOPE STREET 48TH FLOOR LOS ANGELES, CA 90071-1448			EXAMINER VO, HUYEN X	
			ART UNIT 2626	PAPER NUMBER
			MAIL DATE 01/11/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/639,143

Applicant(s)

VOLCANI ET AL.

Examiner

Huyen X. Vo

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/11/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The term "computer readable medium" is not found in the specification. The specification mentions the term "storage medium" but does not describe what "storage medium" may include. Thus, "storage medium" can be considered carrier waves.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Omum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-24 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/376680. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are claiming the same subject matters.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Chase (US 6332143).

7. Regarding claim 1, Chase discloses a computer program stored on a computer readable medium comprising:

a vocabulary database comprising machine readable data corresponding to a plurality of vocabulary words and a lexical impact value respectively corresponding to each vocabulary word for a chosen lexical impact scale (*col. 6, line 63 to col. 8, line 67, including table 2*);

comparison instructions comprising machine readable instructions for comparing a plurality of text words of a writing to the vocabulary database to determine lexical impact values for the chosen lexical impact scale for each text word that corresponds to a vocabulary word (*col. 10, lines 60 to col. 11, lines 35*); and

output instructions comprising machine readable instructions for outputting the lexical impact value of the text words for the chosen lexical impact scale that correspond to vocabulary words as output data (*figure 5*).

8. Regarding claim 15, Chase discloses a computer program stored on a computer readable medium comprising:

a thesaurus database comprising machine readable data corresponding to thesaurus groupings and rankings for each thesaurus grouping, with respect to a plurality of lexical impact scales (*col. 6, line 63 to col. 8, line 67, including table 2; and col. 26, lines 5-10*);

input instructions comprising machine readable instructions for receiving a requested text portion for a chosen lexical impact scale (*referring to figures 3-5*);

retrieval instructions comprising machine readable instructions for retrieving a thesaurus grouping corresponding to the requested text portion (*col. 10, lines 60 to col. 11, lines 35*); and

output instructions comprising machine readable instructions for outputting the thesaurus grouping including potential replacement words and corresponding rankings (*figure 5*).

9. Regarding claims 2-6, Chase further discloses the computer program of claim 1, wherein the output instructions further comprise machine readable instructions for outputting an overall lexical impact value of the text words in the writing for the chosen lexical impact scale (*graph in figure 5*), wherein the overall lexical impact value is the average lexical impact value of the text words for the chosen lexical impact scale (*equation in col. 12*), wherein the average lexical impact value is a per word value averaged over the entire writing (*equation in col. 12*), wherein the average lexical impact value is a per word value averaged over a portion of the writing (*equation in col. 12*), further comprising comparison instructions including machine readable instructions for comparing the average lexical impact value for the chosen lexical impact scale to a predetermined lexical impact threshold value (*referring to col. 12-14*).

10. Regarding claims 7-10, Chase further discloses the computer program of claim 6, further comprising display instructions including machine readable instructions for generating a visual display, perceivable by the author, indicative of exceeding a

predetermined lexical impact average threshold value (*figure 5*), further comprising comparison instructions including machine readable instructions for comparing the average lexical impact value for the chosen lexical impact scale to a predetermined lexical impact threshold value (*col. 12-14*), display instructions including machine readable instructions for generating a visual display, perceivable by the author, indicative of exceeding the predetermined lexical impact threshold value (*figure 5 and col. 12-14*), display instructions including machine readable instructions for generating a visual display, perceivable by the author, corresponding to each individual word that exceeds a predetermined lexical impact threshold value (*figure 5 and col. 12-14*).

11. Regarding claims 11-14, Chase further discloses the computer program of claim 10, wherein each word that exceeds the predetermined lexical impact threshold value is highlighted within the writing, wherein the words are highlighted by a variation in the color of the text words, wherein the words are highlighted by a variation in the color of the text words, wherein the computer program is configured to operate over a website interface (*within the cope of the reference; referring to figures 1, 3, 5; and col. 12-14*).

12. Regarding claims 16-20, Chase further discloses the computer program of claim 15, wherein the thesaurus grouping only includes potential replacement words from the chosen lexical impact scale (*col. 25, line 40 to col. 26, line 10*), wherein the thesaurus grouping only includes potential replacement words that have a positive valence with respect to the chosen lexical impact scale (*quantifying intensity of connotative meanings*

section in col. 18-25), wherein the thesaurus grouping includes zero valence substitutions (*col. 18-25*), wherein the thesaurus grouping includes out-of-scale substitutions, wherein the potential replacements are sorted by valence (*col. 18-25*).

13. Regarding claims 21-24, Chase further disclose the computer program of claim 16, wherein the potential replacements are also sorted alphabetically (*within the cope of the reference*), wherein the thesaurus database further comprises machine readable data corresponding to homonym groupings and aural impact rankings for each homonym grouping (*within the scope of the reference*), wherein each word that includes undesirable aural effects is highlighted within the writing (*figure 3*), wherein the words are highlighted by a variation in the color of the text words (*within the scope of the reference*).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen X. Vo whose telephone number is 571-272-7631. The examiner can normally be reached on M-F, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HXV

1/6/2008

A handwritten signature in black ink, appearing to be "Amy S. [unclear]", is written over the "***" text.